

CHAPTER 13
PERMITS AND EASEMENTS FOR CONSTRUCTION AND
OTHER ACTIVITIES ON PUBLIC LANDS AND WATERS

571—13.1(461A) Purpose. These rules establish procedures and guidelines for issuance of permits for construction and other activities on lands and waters under the jurisdiction of the natural resource commission. These rules also provide for the issuance of easements to public utilities and political subdivisions for certain types of activities that are determined to have a permanent effect on public use and enjoyment of DNR lands and waters.

571—13.2(461A) Definitions. When used in this chapter:

“*Commission*” means the natural resource commission.

“*Director*” means the director of the department of natural resources.

“*Easement*” means an easement granted pursuant to Iowa Code section 461A.25.

“*Lease*” means a lease granted pursuant to Iowa Code section 461A.25.

“*Permit*” means a permit granted pursuant to Iowa Code section 461A.4.

571—13.3(461A) Permit required. Except for persons lawfully engaged in public recreation or other legal use of public lands and waters, no person shall temporarily or permanently place or build any structure on lands or waters under the jurisdiction of the commission without a permit issued by the director as provided in this rule or other rules of this chapter.

571—13.4(461A) Application. Permits shall be applied for on an application form provided by the department. In addition to other information requested, applicants shall state the need for the proposed construction, the availability of alternatives and measures proposed to prevent, minimize or mitigate adverse impacts to natural resources or public use of the affected area.

571—13.5(461A) Permit issued or denied. The department shall promptly review all permit applications and the director shall grant or deny an application upon completion of the review. Permits granted shall state all terms and conditions of the permit. Denial of permit applications shall be provided in writing to the applicant stating reasons for such denial. The director may deny applications when:

1. The proposed activity adversely affects natural resources;
2. The proposed activity adversely affects other public interests;
3. There exist viable alternatives to construction on public land;
4. The proposed activity is solely for the convenience of the applicant; and
5. There is no compelling health or safety necessity for the proposed construction.

571—13.6(461A) Additional information or analysis required. The director may require applicants to provide any additional information required to complete review of an application including, but not limited to, study of alternatives to construction on public lands and waters, social and environmental impacts of the proposed construction, and a professional real estate appraisal of the value that a permit may convey. When the director determines that the proposed activity will significantly affect the public interest, the director may hold a public meeting in the vicinity of the proposed activity. Public input shall be considered by the director when acting on a permit application.

571—13.7(461A) Leases and easements. When permitted activity results in long-term or permanent use of public property, the director may require that a permittee enter into a lease covering the area affected by the proposed construction. Fees for leases shall be determined by 571—Chapters 17 and 18 or other methods approved by the commission and executed pursuant to Iowa Code section 461A.25. In the case of public utilities or political subdivisions, the director may grant an easement pursuant to Iowa Code section 461A.25. The value of an easement shall be determined by the director based upon a real estate appraisal or other method approved by the commission. In addition to fees for leases or easements, the director shall assess the permittee for the reasonable costs associated with administering a lease or easement including the cost of appraisals or other methods of establishing values.

571—13.8(461A) Appeals. Applicants may request that the director reconsider any decision to deny a permit or any condition of a permit. Such requests shall be filed in writing and shall state the basis of the request for reconsideration. An applicant may appeal the director's final determination to the commission. Appeals to the commission shall be filed in writing. Upon receipt of a written appeal to the commission, the director shall schedule an appointment for the applicant affording a personal appearance before the commission.

571—13.9(461A) Unauthorized construction. Any person who has willfully engaged in construction or other activity without a permit may be cited by an officer of the department pursuant to Iowa Code section 461A.4. In cases where the director determines the activity was not a willful violation, the director may provide written notice to the person stating a date and method by which such construction shall cease and any structure shall be removed. Any person who fails to comply with a written notice from the director may be cited by an officer pursuant to Iowa Code section 461A.4, receive an order to remove issued by the commission pursuant to Iowa Code section 461A.5, or receive an order by a court of appropriate jurisdiction upon petition by the department.

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